I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL POSTAGE PREPAID IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS, P.O. BOX 1450, ALEXANDRIA, VA. 22313-1450, ON:

February 8, 2005

Rupert B. Hurley Jr.

Rupert B. Hurley Jr.
Registration No. 29,313

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : WOLF et. al.

Attorney Docket No.: D-42816-02

Serial No : 09/843,990

Group Art Unit: 3721

Filing Date: April 27, 2001

Examiner: Gerrity, Stephen F.

For: "STACK-SEALING METHOD USING MULTILAYER PACKAGING FILM"

APPEAL BRIEF UNDER 37 C.F.R. §41.37

Commissioner of Patents
Alexandria, VA.

Sir:

This Appeal Brief under 37 C.F.R. §41.37 is submitted in further to the Notice of Appeal filed October 6, 2004 (received in the Mail Room on October 8, 2004), the period for submission of the Appeal Brief being extended two months, i.e., through Tuesday, February 8, 2005, by the concurrently-filed petition for a two-month extension of time. The undersigned authorizes the Commissioner to charge the brief fee and the extension fee to Deposit Account No. 07-1765. Should any additional fees be deemed necessary, or

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any overpayment due, the Commissioner is authorized to charge and/or credit Deposit Account No. 07-1765 in the appropriate amount(s).

Appellants respectfully request reversal of the various rejections, in view of the arguments presented below.

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(1) Real Party in Interest

The real party in interest is Cryovac, Inc., assignee of the above-referenced patent application.

(2) Related Appeals and Interferences

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The claims on appeal are pending Claims 21-33, all of which stand rejected. No claim stands allowed. Claim 21 is the only pending independent claim. A copy of Claims 21-33 appears in the Appendix.

(4) Status of Amendments

All amendments filed to-date have been entered. No amendments have been submitted after the 6 May 2004 Office Action.

(5) Summary of the Claimed Subject Matter

The invention is directed to a process in which (A) a first product 174 is placed into a flexible, heat-shrinkable bag 176; (B) a second product 178 is placed into a second bag 180, (C) the first and second bagged products 174 and 178 are stacked so that the excess bag length of each of the bagged products are on top of one another. [Page 7 lines 17-23; FIG. 5 and Paragraph inserted on Page 34 between lines 7 and 8 (see Appendix A)] The stacked bags are then heat sealed by sealing the inside layer of first bag 176 to itself and heat sealing the inside layer of the second bag 180 to itself while the bags remain stacked on top of one another. [Page 7 lines 23-27, Page 8 line 4-5, FIG. 5 and Exhibit A] The heat sealing is carried out at a temperature so that the resulting packaged products can be freely separated from one another without layer delamination. [Page 7 lines 27-29] The flexible, heat-shrinkable bag comprises a multilayer film having (1) a first layer, which is an inside bag layer, and which comprises polyolefin; (2) a second layer comprising at least one member selected from the group consisting of polyolefin, polystyrene, and polyurethane; (3) a third layer comprising a polyamide having a melting point of 160°C and below; and (4) a fourth layer, which is an outside bag layer, the fourth layer comprising polyester. [Page 4 lines 16-25]

In a first preferred embodiment of the invention, the process is carried out in a rotary chamber vacuum machine. [Page 8 lines 3-4]

In a second preferred embodiment of the invention, the film has a total free shrink, at 185°F, of from about 40 to 170 percent, and the film has a thickness uniformity of greater than about 20 percent. [Page 4 line 26 through Page 5 line 5]

(6) Issues To Be Reviewed on Appeal

The issues on appeal are as follows:

(I) WHETHER CLAIMS 21-23, 25-27, and 29-33 ARE OBVIOUS OVER APPLICANTS ADMISSION OF PRIOR ART CONCERNING NISHIMOTO ET AL IN VIEW OF GILL ET AL

(II) WHETHER CLAIM 24 IS OBVIOUS OVER APPLICANTS ADMISSION OF PRIOR ART CONCERNING NISHIMOTO ET AL IN VIEW OF BULLOCK ET AL

(III) WHETHER CLAIMS 28 IS OBVIOUS OVER APPLICANTS ADMISSION OF PRIOR ART CONCERNING NISHIMOTO ET AL IN VIEW OF GILL ET AL FURTHER IN VIEW OF OBERLE ET AL

(7) The Arguments

(I) CLAIMS 21-23, 25-27, and 29-33 ARE PATENTABLE OVER AAPA CONCERNING NISHIMOTO ET AL IN VIEW OF GILL ET AL

In Section 2 of the 6 May 2004 Office Action, Claims 21-23, 25-27, and 29-33 are rejected under 35 U.S.C. §103(a) as unpatentable over Applicant's Admitted Prior Art ("AAPA") concerning U.S. Patent No. 5,336,549, to Nishimoto et al ("NISHIMOTO et al") in view of U.S. Patent No. 3,919,033, to Gill et al ("GILL et al"). The Office Action refers to Page 2 lines 5-15 of Appellants' specification as stating that the prior art includes the sealing of multiple bags stacked on top of one another, and that AAPA meets the claims with the exception of the polyamide intermediate layer of the film having a melting point of less than 160°C. The Office Action goes on to state that GILL et al teaches nylon 6.12 among the preferred polyamides, and also teaches a polyamide having a melting point less than 160°C for the purpose of producing a strong bond. On this basis, the Office Action concludes that it would have been obvious to one having ordinary skill in the art to practice the process disclosed by AAPA concerning NISHIMOTO et al with a known polyamide as illustrated by the prior art to create a strong bond. The Office Action then goes on to direct attention to particular locations in NISHIMOTO et al, the Office Action stating that these particular locations teach various features recited in Appellants' Claims 22, 23, 25, 26, 27, 29, 30, 32, and 33.

In response, Appellants contend that Claims 21-23, 25-27, and 29-33 are patentable over AAPA concerning NISHIMOTO et al in view of GILL et al. Appellants contend that the Office Action fails to set forth a prima facie case of obviousness of any one or more of Claims 21-23, 25-27, and 29-33.

More particularly, Appellants direct attention to the following passages (i.e., Passage I through Passage IV) from NISHIMOTO et al which either (i) teach toward a group of polyamides which does *not* include the polyamide recited in Appellants' claims, or (ii) teaches away from the polyamide as recited in Appellants' claims:

Passage I

> Disclosed herein is a biaxially oriented laminated film comprising at least a surface layer of a polyester containing not less than 88 mol. % of terephthalic acid as an acid ingredient, ***an intermediate layer of a polyamide having a melting point of higher than 160°C. and lower than 210°C.*** and a heat-sealing layer or a polyolefin, the thickness of the polyester layer being lower than the thickness of the polyamide layer. [NISHIMOTO et al, Abstract, emphasis added]

Passage II

> In an aspect of the present invention there is provided a biaxially oriented laminated film comprising at least a surface layer of a polyester containing not less than 88 mol. % of terephthalic acid as an acid ingredient, an intermediate layer of ***a polyamide having a melting point of higher than 160°C. and lower than 210°C.***, and a heat-sealing layer of a polyolefin, wherein the thickness of the polyester resin layer is lower than the thickness of the polyamide layer. [NISHIMOTO et al, Col. 2 lines 24-36, emphasis added]

Passage III

> The polyamide is selected on the basis of the stretching processability and has the melting point of lower than 210°C., because of the high crystallizing rate of the polyamide, it is difficult to subject the polyamide to an ordinary stretching processing. ***In order to facilitate the stretching of a laminate of the polyamide and the polyester, an aliphatic polyamide having a melting point of more than 160°C. and lower than 210°C. is preferably used.*** [NISHIMOTO et al, Col. 2 line 64 through Col 3 line 4, emphasis added]

Passage IV

> ***In Comparative Example 2, since the melting point of PA-2 was as low as 135°C., the variation in the load of the extruder was great and the stretchability was unstable. The variation in the dimensions of the film was also great. In addition, the film thickness was not uniform.*** In Comparative Example 3, since the thickness (8 μm) of PET-1 was larger than the thickness (6 μm) of PA-1, stretching of the film was impossible. In Comparative Example 4, since the melting point of PA-3 was as high as 265°C.,

> stretching of the film was impossible. ***In Comparative Example 5, the packaging property was bad and the transparency after shrinkage was also bad. In this way, in none of these films obtained in Comparative Examples 1 to 4, the object of the present invention was achieved.*** [NISHIMOTO et al, Col. 8 lines 36-50, emphasis added]

Appellants contend that Passages I and II teach that the film of NISHIMOTO et al utilize a polyamide having a melting point "...higher than 160°C and lower than 210°C...." This certainly excludes Appellants' recited polyamide which has "...a melting point of 160°C and below."

Passage III of NISHIMOTO et al, set forth above, goes further than Passages I and II in that it teaches not only that the internal film layer should contain the polyamide having a melting point of higher than 160°C and less than 210°C, but also that the polyamide has a melting point within this range "...in order to facilitate a stretching of a laminate of the polyamide and the polyester...." Thus, Passage III goes the extra step of describing a relationship between the melting point of the polyamide and the stretching (i.e., orientability) of the film.

Passage IV of NISHIMOTO et al goes further than Passages I, II, and III in teaching directly away from Appellants claimed film. Passage IV is directed to Comparative Example 2 and Comparative Example 5, each of which utilize "PA-2" (see Table 3 of NISHIMOTO et al). Table 1 in Column 6 of NISHIMOTO et al identifies "PA-2" as "6-12 nylon (copolymerization ratio 50/50 wt %)" with a reported melting point of 135°C. In Passage IV, with respect to Comparative Example 2, NISHIMOTO et al describes the 135°C melting point polyamide as producing a number of detriments, including: "...the variation in the load of the extruder was great and the stretchability was

unstable...The variation in the dimensions of the film was also great...In addition, the film thickness was not uniform." In addition, Comparative Example 5 in NISHIMOTO et al, which uses the same "PA-2" with the 135°C melting point, is described as "...the packaging property was bad and the transparency after shrinkage was also bad...In this way, in none of these films obtained in Comparative Examples 1 to 4, the object of the present invention was achieved."

The teachings above, particularly Passage IV, provide clear evidence that NISHIMOTO et al is teaching away from lowering the melting point of the polyamide below the temperature range NISHIMOTO et al teaches as "greater than 160°C and less than 210°C." As such, NISHIMOTO et al clearly teaches away from Appellants' claimed invention. The final sentence in Passage IV is to the effect that if the melting point of the polyamide is lowered below the melting point range taught, the objects of the invention of NISHIMOTO et al are not achieved. Thus, one of ordinary skill in the art would not modify NISHIMOTO et al in a manner which NISHIMOTO et al teaches as defeating the objectives of the invention of NISHIMOTO et al. For this reason, it is apparent that the Office Action fails to make out a prima facie case of obviousness because the Office Action uses GILL et al to modify NISHIMOTO et al in a manner which is directly contrary to the teaching of NISHIMOTO et al. The law is clear that it is improper to modify a reference document in a manner inconsistent with its teachings.

As to AAPA, Appellants admit that in the prior art, the bags of NISHIMOTO et al have been commercialized by Kureha, the assignee of NISHIMOTO et al. Appellants further acknowledge that purchasers of the Kureha bags have used the bags in stack sealing operations. Although there is no evidence that the users of the bags know the

content of the various layers of the multilayer film from which the Kureha bags are made, it is only reasonable to assume that one of ordinary skill in the art would find the bags of Kureha to be in accordance with NISHIMOTO et al. Thus, the use of the Kureha bags in a stack sealing process does not change the above teaching of NISHIMOTO et al. In fact, the disclosure in NISHIMOTO et al that a lower melting polyamide produced (i) decreased film thickness uniformity, (ii) decreased packaging property, and (iii) decreased film transparency after shrinkage, would have operated to motivate one of ordinary skill in the art to provide the internal film layer with a polyamide having a melting point within the range taught by NISHIMOTO et al, rather than a polyamide having a melting point below the range taught in NISHIMOTO et al.

Turning next to GILL et al, Appellants note that GILL et al is directed to a nylon-based hot melt adhesive for use on a textile fabrics. The title of GILL et al is "**FABRIC** BONDING PROCESS UTILIZING POWDERED INTERPOLYAMIDES". [See Title of GILL et al., emphasis added] Moreover, the abstract of GILL et al states that the invention of GILL et al is directed to "Bonding **fabrics**, using as a fusible adhesive a polyamide consisting essentially of..." [See Abstract of GILL et al, emphasis added] "It is well-known to use thermoplastic materials as adhesives for bonding **fabrics**.... Thus for example stiffening materials for **interlinings**...." [See GILL et al Col 1 lines 10-11, emphasis added] "According to the invention a **fabric**-bonding process comprises applying to a **fabric** surface a polyamide...bringing said surface into contact with a second **fabric** surface and applying heat to soften the polyamide." [GILL et al Col 1 lines 28-40, emphasis added] Clearly, GILL et al is directed to the use of a polyamide as a "hot melt adhesive" for bonding two *fabrics* to one another, or for stiffening a *fabric*

"interlining". Appellants contend that GILL et al is directed to non-analogous art because Appellants' invention, as claimed, recites a bag made from a multilayer *film*. GILL et al is not directed to films. GILL et al is directed to textile fabrics, which are *woven or non-woven fabric, not films*. [See GILL et al Col. 1 lines 13-16.] Secondly, Appellants contend that the use of the hot melt polyamide-based adhesive in GILL et al is used on the *surface of a fabric*, i.e., not in an internal layer of a multilayer film as recited in Appellants' claims. Thus, while Appellants admit that GILL et al discloses a polyamide having a softening point between 120°C and 160°C, one of ordinary skill in the art of packaging processes would not turn to *the disclosure of polyamide as a hot melt adhesive or stiffening agent for use on the surface of one or more fabrics* to determine how to modify an internal film layer of the flexible packaging film of NISHIMOTO et al.

Moreover, one of ordinary skill in the art would not use the teaching of GILL et al to modify the film of the primary reference (NISHIMOTO et al) in a manner which is inconsistent with the teaching of the primary reference. As pointed out above, Comparative Examples 2 and 5 of NISHIMOTO et al are disclosed as using a polyamide having a lower melting point, and characterized as exhibiting great variation in the load of the extruder, unstable stretchability, great variation in the dimensions of the film, and lack of uniformity of film thickness. One of ordinary skill in the art would not have substituted a lower melting polyamide for the internal layer of the multilayer film of NISHIMOTO et al, because NISHIMOTO et al teaches that to make this substitution is to produce a variety of undesirable results and problems. This is yet a further reason that the Office Action fails to make out a prima facie case of obviousness.

(II) CLAIM 24 IS PATENTABLE OVER AAPA CONCERNING NISHIMOTO ET AL IN VIEW OF BULLOCK ET AL

In Section 3 of the 6 May 2004 Office Action, Claim 24 is rejected under 35 U.S.C. §103(a) as unpatentable over AAPA concerning NISHIMOTO et al in view of U.S. Patent No. 4,550,548 ("BULLOCK et al"). The Office Action relies upon AAPA concerning NISHIMOTO et al as set forth under heading "I" above, but admits that AAPA concerning NISHIMOTO et al does not show the process being carried out on a rotary chamber vacuum machine, and goes on to conclude that the process of Claim 24 would have been obvious because BULLOCK et al teaches the use of a rotary chamber vacuum machine for sealing multilayer films.

As an initial matter, Appellants note that U.S. Patent No. 4,550,548 issued November 5, 1985 to Owensby et al, **NOT** to BULLOCK et al. Appellants assume that the Office Action identified the intended patent number, i.e., USPN 4,550,548, but erred in the identification of the inventor as BULLOCK et al, with the correct inventors being Owensby et al. Nevertheless, for the purpose of this Appeal Brief, USPN 4,550,548 is herein referred to as "BULLOCK et al", for the purpose of consistency with the Office Action.

Appellants contend that Claims 24 is patentable over AAPA concerning NISHIMOTO et al in view of BULLOCK et al. Appellants further contend that the Office Action fails to make out a prima facie case of obviousness of Claim 24 over AAPA concerning NISHIMOTO et al in view of BULLOCK et al.

Appellants also note that in the rejection of Claims 21-23, 25-27, and 29-33, the Office Action relies upon GILL et al for the polyamide having the lower melting point. However, GILL et al was not utilized in the rejection of Claim 24. Appellants assume

that this is a second oversight in the rejection of Claim 24, and that the intent was to reject Claim 24 as unpatentable over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of BULLOCK et al.

Appellants contend that Claim 24 is patentable over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of BULLOCK et al for at least the same reasons that Claims 21-23, 25-27, and 29-33 are patentable over AAPA concerning NISHIMOTO et al in view of GILL et al. Again, NISHIMOTO et al teaches away from an internal layer containing a polyamide having a melting point of f160°C and below. See Passages I, II, III, and IV set forth above. Moreover, the teaching of NISHIMOTO et al is that making the internal polyamide layer from a lower melting polyamide resulted in: (i) decreased film thickness uniformity, (ii) decreased packaging property, and (iii) decreased film transparency after shrinkage. Again, this would have motivated one of ordinary skill in the art against lowering the melting point of the polyamide below the range of operability taught by NISHIMOTO et al. Moreover, one of ordinary skill in the art would not use the teaching of GILL et al to modify the film of the primary reference (NISHIMOTO et al) in a manner inconsistent with the teaching of the primary reference.

Still further, there is no teaching or suggestion in BULLOCK et al that two or more bags can be stacked on top of one another and sealed together using a rotary chamber vacuum machine. There is no indication in Appellants' specification that AAPA concerning NISHIMOTO et al was conducted using a rotary chamber vacuum machine. A rotary chamber vacuum packaging machine is an automated packaging machine, having automated sealing features and precise timing requirements. There is no

indication in BULLOCK et al that this automated machine with precise timing requirements is capable of the stack sealing operation recited in Appellants' Claim 24. Thus, there is no motivation to use the rotary chamber vacuum machine of BULLOCK et al in the AAPA concerning NISHIMOTO et al.

Claim 24 is paten table over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of BULLOCK et al for all of the reasons set forth above.

(III) CLAIM 28 IS PATENTABLE OVER AAPA CONCERNING NISHIMOTO ET AL IN VIEW OF GILL ET AL FURTHER IN VIEW OF OBERLE ET AL

In Section 4 of the 6 May 2004 Office Action, Claim 28 is rejected under 35 U.S.C. §103(a) as unpatentable over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of U.S. Patent No. 4,469,742 ("OBERLE et al"). The Office Action relies upon AAPA concerning NISHIMOTO et al and GILL et al as set forth under heading "I" above. The Office Action thereafter states that the modified method of AAPA discloses the invention as claimed but does not specifically show a free shrink of from 40 to 170 percent at 185°F. The Office Action goes on to state that OBERLE et al teaches film oriented with a shrink capacity of 30 to 55% at 185°F in order to create a tight package. The Office Action then concludes that it would have been obvious for one of ordinary skill in the art to have provided a specific shrink capacity in order to achieve neat packaging.

In response, Appellants contend that Claims 28 is patentable over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of OBERLE et al. Appellants further contend that the Office Action fails to make out a prima facie case of obviousness of Claim 28 over AAPA concerning NISHIMOTO et al in view of GILL et

al further in view of OBERLE et al, for at least the same reasons that Claims 21-23, 25-27, and 29-33 are patentable over AAPA concerning NISHIMOTO et al in view of GILL et al. Again, NISHIMOTO et al teaches away from an internal layer containing a polyamide having a melting point of 160°C and below. See Passages I, II, III, and IV an accompanying discussion under heading "I" above. Moreover, the teaching of NISHIMOTO et al is that making the internal polyamide layer from a lower melting polyamide resulted in: (i) decreased film thickness uniformity, (ii) decreased packaging property, and (iii) decreased film transparency after shrinkage. Again, this would have motivated one of ordinary skill in the art against lowering the melting point of the polyamide below the range of operability taught by NISHIMOTO et al. In addition, one of ordinary skill in the art would not use the teaching of GILL et al to modify the film of the primary reference (NISHIMOTO et al) in a manner inconsistent with the teaching of the primary reference.

Turning specifically to the features recited in Claim 28, Appellants note that Claim 28 recites the film as having a total free shrink, at 185°F, of from about 40 to 170 percent. Appellants also direct attention to the fact that Table 3 on lines 1-25 spanning Columns 7 and 8 of NISHIMOTO et al discloses Examples 1, 2, 3, and 4 as having total free shrink values in the L and T directions, as follows: (Ex #1): 25%+28%=53% ; (Ex#2) 27%+30%=57%; (Ex#3) 24%+26%=50%; (Ex#4)29%+31%=60%. These total free shrink numbers are for free shrink values at 98°C (see Column 6 lines 43-47 in Table 2). As such, the total free shrink values of the NISHIMOTO et al films at 185°F (=85°C) are going to be lower, because the temperature at which the heat shrink is generated is 13°C lower (i.e., 98°C minus 85°C=13°C). Whether the resulting total free shrink at

185°F (=85°C) of NISHIMOTO et al Examples 1, 2, 3, and 4 will be lower than Appellants' minimum value of 40% would simply have to be tested to be determined. Nevertheless, the conclusion to be reached from these numbers is that the free shrink of the films of NISHIMOTO et al ***may*** already meet Appellants' recited total free shrink of 40 to 170% at 185°F. Thus, OBERLE et al may or may not be needed to provide the total free shrink feature. Appellants assume that OBERLE et al is not needed.

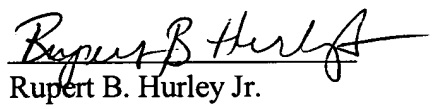
Regardless of whether OBERLE et al is needed to provide the recited total free shrink values, Claim 28 further recites that the film has a thickness uniformity of greater than about 20 percent. This means that the film has relatively good uniformity of thickness, i.e., is of relatively uniform gauge. In this regard, attention is directed to Comparative Examples 2 and 5 in NISHIMOTO et al. Particular attention is directed to the disclosure of a "circle 2" and a "circle 1" evaluation of the "Packaging Property" for Comparative Examples 2 and 5, respectively. See NISHIMOTO et al at Table 3 spanning Columns 7 and 8 at approximately lines 17 and 22. The "circle 2" packaging property value for Comparative Example 2 corresponds with "***Stable packaging and bag forming were impossible due to the variation in the film thickness*** or the unstable sealing strength". See NISHIMOTO et al at Column 7 lines 55-57. The "circle 1" packaging property value for Comparative Example 5 corresponds with "***Stable packaging and bag forming were impossible*** due to the adhesion of the film to the sealing bar or the shrinkage of the film." See NISHIMOTO et al at Column 7 lines 58-60. This teaching in NISHIMOTO et al is to the effect that if one were to substitute the lower melting polyamide of GILL et al into the film of NISHIMOTO et al, the result would be a film which may have higher total free shrink at 185°F, but which would likely not have "a thickness uniformity of greater than

about 20 percent ", as recited in Claim 28. This is an additional reason Claim 28 is patentable over AAPA concerning NISHIMOTO et al in view of GILL et al further in view of OBERLE et al.

Conclusion

Appellants respectfully request favorable consideration of the appealed claims, with a view towards reversal of the rejections. Should there be any questions, the Board is invited to contact the undersigned at the telephone number provided below.

Respectfully Submitted,



Rupert B. Hurley Jr.
Reg. No. 29,313
Attorney for Appellants
(864) 433-3247

February 8, 2005

(8) Claims Appendix

The claims on appeal are Claims 21-23 and 25-33, as follows:

Claim 21: A process for packaging a product, comprising the steps of:

(A) placing a first product into a flexible, heat-shrinkable bag, the bag having an open top, whereby a first bagged product having excess bag length results, and wherein the bag comprises a multilayer film comprising:

(1) a first layer, which is an inside bag layer, and which comprises polyolefin;

(2) a second layer comprising at least one member selected from the group consisting of polyolefin, polystyrene, and polyurethane;

(3) a third layer comprising a polyamide having a melting point of 160°C and below; and

(4) a fourth layer, which is an outside bag layer, the fourth layer comprising polyester; and

wherein the bag is produced by sealing the first layer to itself, whereby the first layer is an inside bag layer and the fourth layer is an outside bag layer;

(B) repeating the placing step with a second product and a second bag, whereby a second bagged product results;

(C) stacking at least the first and second bagged products so that the excess bag length of each of the bagged products are on top of one another within a sealing distance of a means for heat-sealing;

(D) heat-sealing the inside layer of first bag to itself in the region between the open end of the first bag and the product, and the inside layer of the second bag to itself in the region between the open end of the second bag and the product, so that the

first product is completely sealed within the first bag and the second product is completely sealed with the second bag, the sealing being carried out at a temperature so that the resulting packaged products can be freely separated from one another without layer delamination.

Claim 22: The process according to Claim 21, wherein the second layer has a thickness of from about 10 to about 50%, based on the thickness of the multilayer film.

Claim 23: The process according to Claim 21, further comprising a fifth layer which serves as an O_2-barrier layer, the fifth layer comprising at least one member selected from the group consisting of EVOH, PVDC, polyalkylene carbonate, polyamide, and polyethylene naphthalate.

Claim 24: The process according to Claim 21, wherein the process is carried out in a rotary chamber vacuum machine.

Claim 25: The process according to Claim 21, wherein from 2 to 5 bagged products are stacked on top of one another during heat-sealing.

Claim 26: The process according to Claim 25, wherein 2 bagged products are stacked on top of one another during heat-sealing.

Claim 27: The process according to Claim 21, wherein the polyamide makes up at least 40 weight percent of the third layer.

Claim 28: The process according to Claim 21, wherein the film has a total free shrink, at 185°F, of from about 40 to 170 percent, and the film has a thickness uniformity of greater than about 20 percent.

Claim 29: The process according to Claim 21, wherein the polyamide makes up at least 50 weight percent of the third layer.

Claim 30: The process according to Claim 21, wherein the polyester comprises from about 80 to about 95 mole percent terephthalate mer units.

Claim 31: The process according to Claim 21, wherein the polyamide has a melting point of from about 120°C up to 145°C.

Claim 32: The film according to Claim 21, wherein the polyolefin in the first layer has a melting point of from about 50°C to less than 125°C.

Claim 33: The film according to Claim 21, wherein the polyester has a melting point of from about 210°C to about 235°C.

(9) Evidence Appendix

For the convenience of the Board, Exhibit A is provided herewith. Exhibit A is a copy of lines 1-9 of Page 2 of the Amendment under 37 CFR §1.111 mailed 7 April 2003.

(10) Related Proceedings Appendix

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.